

BOARD OF COUNTY COMMISSIONERS

AGENDA ITEM SUMMARY

Meeting Date: 6/15/05

Division: Public Works

Bulk Item: Yes X No     

Department: Fleet Management

Staff Contact person: Roy Sanchez



**AGENDA ITEM WORDING:** Approval to award bid and execute a contract with All Power Generators, Corp. for emergency generator inspections, maintenance, and repairs.

**ITEM BACKGROUND:** The low bidder (All Power Generators, Corp.) will perform an annual major inspection of the County's fifty seven (57) plus emergency generators and will also perform maintenance, electrical and/or engine repairs upon the request of the County. Additionally, they will be assigned to the County's Emergency Operations Center (EOC) during and following all hurricanes or emergencies declared by the County.

**PREVIOUS RELEVANT BOCC ACTION:** Since 1996, the Board has approved and executed annual contracts for emergency generator inspections, maintenance, and repairs.

**CONTRACT/AGREEMENT CHANGES:** New contractor, new contract, seven additional generators. Rates are lower than previous contractors

**STAFF RECOMMENDATIONS:** Approval

**TOTAL COST:** NTE \$45,000.00

**BUDGETED:** Yes X No       
Acct. 504-23503-530340

**COST TO COUNTY:** same

**SOURCE OF FUNDS:** ad valorem

**REVENUE PRODUCING:** Yes      No X **AMOUNT PER MONTH**      **Year**     

**APPROVED BY:** County Atty.      OMB/Purchasing      Risk Management     

**DIVISION DIRECTOR APPROVAL:**



Dent Pierce

**DOCUMENTATION:** Included X Not Required     

**DISPOSITION:**     

**AGENDA ITEM #**

**MONROE COUNTY BOCC  
PURCHASING OFFICE**

**BID OPENING TABULATION SHEET**

OPEN DATE: APRIL 5, 2005 AT 11:00 AM

**TITLE : EMERGENCY GENERATOR INSPECTIONS AND ELECTRICAL REPAIRS**

BIDDER	ITEM 1.	ITEM 2.	ITEM 3.	ITEM 4.	ITEM 5.	ITEM 6.
CONDO ELECTRIC MOTOR REPAIR, CORP. HIALEAH, FLORIDA	\$105.00	\$150.00	12%	\$175.00	\$105.00	\$125.00
	\$55.00	\$85.00				
	\$160.00	\$235.00				
ALL POWER GENERATORS, CORP. MEDLEY, FLORIDA	\$40.00	\$50.00	20%	\$50.00	\$50.00	\$50.00
	\$20.00	\$25.00				
	\$60.00	\$75.00				
TAW POWER SYSTEMS POMPANO BEACH, FL	\$78.00	\$117.00	15%	\$200.00	\$78.00	\$117.00
	\$78.00	\$117.00				
	\$156.00	\$234.00				

Bid Committee Present: Lisa Ernst Cherry and Carlos Victores.

I hereby certify that this is a true and correct copy of said bid opening and that all bidders listed above have been checked against the State of Florida Convicted & Suspended Vendor listings. All bids listed above were received by the date and time specified.

Bid Opened By: Lisa Ernst Cherry, Purchasing Supervisor

# MONROE COUNTY BOARD OF COUNTY COMMISSIONERS

## CONTRACT SUMMARY

Contract # \_\_\_\_\_  
 Contract with: All Power Generator, Corp. Effective Date: 08/01/05  
 Expiration Date: 07/31/06  
 Contract Purpose/Description: Emergency generator inspections and electrical repairs, upper, middle, and lower keys facilities from Key West to Cardsound.  
 Contract Manager: Roy Sanchez 3572 Fleet Management Services  
 (Name) (Ext.) (Department)  
 for BOCC meeting on 06/15/05 Agenda Deadline: 05/31/05

## CONTRACT COSTS

Total Dollar Value of Contract: \$45,000.00 Current Year Portion: \$7,500.00 approx.  
approx.  
 Budgeted? Yes ☒ No ☐ Account Codes: 504-23503-530-340-\_\_\_\_\_  
 Grant: \$ \_\_\_\_\_  
 County Match: \$ \_\_\_\_\_

## ADDITIONAL COSTS

Estimated Ongoing Costs: \$unknown/yr For: unexpected repairs  
 (Not included in dollar value above) (eg. maintenance, utilities, janitorial, salaries, etc.)

## CONTRACT REVIEW

	Date In	Changes Needed	Reviewer	Date Out
Division Director	<u>5/19/05</u>	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	<u>[Signature]</u>	<u>5/19/05</u>
Risk Management	<u>5-17-05</u>	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	<u>[Signature]</u>	<u>5-17-05</u>
O.M.B./Purchasing <u>RC</u>	<u>5/18/05</u>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	<u>[Signature]</u>	<u>5/18/05</u>
County Attorney	<u>5/16/05</u>	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	<u>[Signature]</u>	<u>5/16/05</u>

Comments: Public Entity Crime statement needs to be added. RC  
☒ OK - will be attached to contract at time of county execution.

## CONTRACT

THIS AGREEMENT, made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2005, A.D., by and between MONROE COUNTY, FLORIDA, (hereinafter sometimes call the "owner"), and ALL POWER GENERATORS, CORP. (hereinafter called the "Contractor").

That the parties hereto, for the consideration hereinafter set forth, mutually agree as follow:

**1. THE CONTRACT**

The contract between the owner and the contractor, of which this agreement is a part, consists of the contract documents, as specified in paragraph 2.

**2. THE CONTRACT DOCUMENTS**

The contract documents consist of this agreement, the specifications, the generator list, all change orders, the approved inspection checklist, and any addenda issued hereafter, any other amendments hereto executed by the parties hereafter, together with the bid proposal and all required insurance documentation.

**3. SCOPE OF THE WORK**

The Contractor shall provide all necessary supplies and equipment required in the performance of same, and perform all of the work described in paragraph 40, and as entitled:

**EMERGENCY GENERATOR INSPECTIONS  
AND ELECTRICAL REPAIRS  
UPPER, MIDDLE, AND LOWER KEYS FACILITIES  
FROM KEY WEST TO CARD SOUND  
MONROE COUNTY, FLORIDA**

And his bid dated \_\_\_\_\_, attached hereto and incorporated as part of this contract document. The specifications shall serve as minimum contract standards, and shall be the basis of inspection and acceptance of all the work.

**4. THE CONTRACT SUM**

The Owner shall pay the Contractor in accordance with the following schedule:

- A. Labor for repairs – normal working hours of 8:00 a.m. to 5:00 p.m. Monday through Friday, excluding holidays \$ 40.00 per hour mechanic/\$ 20.00 per hour helper.
- B. Labor for repairs – overtime rate for hours other than the normal working hours as stated in item (A) above, including holidays, \$ 50.00 per hour mechanic/\$ 25.00 per hour helper.
- C. Materials, supplies, and replacement parts – purchase price plus 20 %. Shipping charges will be reimbursed.
- D. Hourly rate for specification development and other professional services \$50.00 per hour.



- E. Hourly rate for hours of 8:00 a.m. to 5:00 p.m. during assignment to the owners Emergency Operations Center (EOC) excluding actual electrical/generator maintenance and repairs \$ 50.00 Per hour.
- F. Hourly rate for hours other than the hours as stated in item (E) above, during assignment to the owners Emergency Operations Center (EOC) excluding actual electrical/generator maintenance and repairs \$ 50.00 per hour.

*Note: There are no additional costs for travel, mileage, meals, or lodging.*

## **5. CONTRACTOR'S ACCEPTANCE OF CONDITIONS**

- A. The Contractor hereby agrees that he has carefully examined the site and has made investigations to fully satisfy himself that such site is correct and a suitable one for this work and he assumes full responsibility therefore. The provisions of the Contract shall control any inconsistent provisions contained in the specifications. All specifications have been read and carefully considered by the Contractor, who understands the same and agrees to their sufficiency for the work to be done. Under no circumstances, conditions, or situations shall this Contract be more strongly construed against the Owner than against the Contractor.
- B. Any ambiguity or uncertainty in the specifications shall be interpreted and construed by the Owner, and his decision shall be final and binding upon all parties.
- C. The passing, approval, and/or acceptance by the Owner of any of the services furnished by the Contractor shall not operate as a waiver by the Owner of strict compliance with the terms of this Contract, and specifications covering the services. Failure on the part of the Contractor, immediately after Notice to Correct shall entitle the Owner, if it sees fit, to correct the same and recover the reasonable cost of such replacement and/or repair from the Contractor, who shall in any event be jointly and severally liable to the Owner for all damage, loss, and expense caused to the Owner by reason of the Contractor's breach of this Contract and/or his failure to comply strictly and in all things with this Contract and with the specifications.

## **6. TERM OF CONTRACT/RENEWAL**

- A. This contract shall be for a period of one (1) year, commencing \_\_\_\_\_, and terminating \_\_\_\_\_.
- B. The Owner shall have the option to renew this agreement after the first year, and each succeeding year, for two additional one year periods. The Contract amount agreed to herein might be adjusted annually in accordance with the percentage change in the Consumer Price Index for all urban consumers (CPI-U) for the most recent twelve (12) months available.

## **7. HOLD HARMLESS**

The Contractor covenants and agrees to indemnify and hold harmless Monroe County Board of County Commissioners from any and all claims for bodily injury (including death), personal injury, and property damage (including property owned by Monroe County) and any other losses, damages, and expenses (including attorney's fees) which arise out of, in connection with, or by reason of services provided by the Contractor or any of its Subcontractor(s) in any tier, occasioned by the negligence, errors, or other wrongful act of omission of the Contractor or its Subcontractors in any tier, their employees, or agents.

In the event the completion of the project (to include the work of others) is delayed or suspended as a result of the Contractor's failure to purchase or maintain the required insurance, the Contractor shall indemnify the County from any and all increased expenses resulting from such delay.

The first ten dollars (\$10.00) of remuneration paid to the Contractor is for the indemnification provided for above.

The extent of liability is in no way limited to, reduced, or lessened by the insurance requirements contained elsewhere within this agreement.

## **8. INDEPENDENT CONTRACTOR**

At all times and for all purposes under this agreement the Contractor is an independent contractor and not an employee of the Board of County Commissioners for Monroe County. No statement contained in this agreement shall be construed so as to find the contractor or any of his/her employees, contractors, servants, or agents to be employees of the Board of County Commissioners for Monroe County.

## **9. ASSURANCE AGAINST DISCRIMINATION**

The Contractor shall not discriminate against any person on the basis of race, creed, color, national origin, sex, age, or any other characteristic or aspect which is not job related, in its recruiting, hiring, promoting, terminating, or any other area affecting employment under this agreement or with the provision of services or goods under this agreement.

## **10. ASSIGNMENT/SUBCONTRACT**

The Contractor shall not assign or subcontract its obligations under this agreement, except in writing and with the prior written approval of the Board of County Commissioners for Monroe County and Contractor, which approval shall be subject to such conditions and provisions as the Board may deem necessary. This paragraph shall be incorporated by reference into any assignment or subcontract and any assignee or subcontractor shall comply with all of the provisions of this agreement. Unless expressly provided for therein, such approval shall in no manner or event be deemed to impose any obligation upon the board in addition to the total agreed-upon price of the services/goods of the contractor.

## **11. COMPLIANCE WITH LAW**

In providing all services/goods pursuant to this agreement, the contractor shall abide by all statutes, ordinances, rules and regulation pertaining to, or regulating the provisions of, such services, including those now in effect and hereinafter adopted. Any violation of said statutes, ordinances, rules and regulations shall constitute a material breach of this agreement and shall entitle the Board to terminate this contract immediately upon delivery of written notice of termination to the contractor. The contractor shall possess proper licenses to perform work in accordance with these specifications throughout the term of this contract.

## **12. INSURANCE**

Prior to execution of this agreement, and maintained throughout the life of the contract, the contractor shall furnish to the Owner Certificates of Insurance indicating the minimum coverage limitation as listed below:

A. General Liability – include as a minimum:

- Premises Operations
- Products and Completed Operations
- Blanket Contractual Liability
- Personal Injury Liability
- Expanded Definition of Property Damage

The minimum limits acceptable shall be \$300,000 Combined Single Limit

If split limits are provided, the minimum limits acceptable shall be: \$100,000 per person; \$300,000 per Occurrence; and \$50,000 Property Damage.

An Occurrence Form policy is preferred. If coverage is provided on a Claims Made Policy, its provisions should include coverage for claims filed on or after the effective date of this contract. In addition, the period for which claims may be reported should extend for a minimum of twelve months following the acceptance of work by the County.

***MONROE COUNTY BOARD OF COUNTY COMMISSIONERS MUST BE NAMED AS ADDITIONAL INSURED.***

B. Vehicle Liability – include as a minimum:

- Owned, Non-Owned, and Hired Vehicles

The minimum limits acceptable shall be \$100,000 Combined Single Limit

If split limits are provided, the minimum limits acceptable shall be: \$50,000 per Person; \$100,000 per Occurrence; and \$25,000 Property Damage.

***MONROE COUNTY BOARD OF COUNTY COMMISSIONERS MUST BE NAMED AS ADDITIONAL INSURED.***

C. Workers Compensation – limits sufficient to respond to Florida Statute 440.

In addition, the Contractor shall obtain Employers' Liability Insurance with limits of not less than:

\$100,000 Bodily Injury by Accident  
\$500,000 Bodily Injury by Disease, policy limits  
\$100,000 Bodily Injury by Disease, each employee

Coverage shall be provided by a company or companies authorized to transact business in the State of Florida and the company or companies must maintain a minimum rating of A-VI, as assigned by the A.M. Best Company.

If the Contractor has been approved by Florida's Department of Labor, as an authorized self-insurer, the County shall recognize and honor the Contractor's status. The Contractor may be required to submit a Letter of Authorization issued by the Department of Labor and Certificate of Insurance, providing details on the Contractor's Excess Insurance Program.

If the Contractor participates in a self-insurance fund, a Certificate of Insurance will be required. In addition, the contractor may be required to submit updated financial statements from the fund upon request from the County.

### **13. FUNDING AVAILABILITY**

In the event that funds from Fleet Management Contractual Services are partially reduced or cannot be obtained or cannot be continued at level sufficient to allow for the purchase of the services/goods specified herein, this agreement may then be terminated immediately at the option of the Board of County Commissioners by written notice of termination delivered in person or by mail to the contractor. The Board shall not be obligated to pay for any services provided by the contractor after the contractor has received written notice of termination.

### **1. PROFESSIONAL RESPONSIBILITY**

The Contractor warrants that it is authorized by law to engage in the performance of the activities encompassed by the project herein described, subject to the terms and conditions set forth in these contract documents. The provider shall at all times exercise independent, professional judgment and shall assume professional responsibility for the services to be provided. Continued funding by the Owner is contingent upon retention of appropriate local, state, and/or federal certification and/or licensure of contractor.

### **2. NOTICE REQUIREMENT**

Any notice required or permitted under this agreement shall be in writing and hand delivered or mailed, postage prepaid, to the other party by certified mail, return receipt requested, to the following:

FOR COUNTY  
Monroe County Facilities Maintenance  
3583 S. Roosevelt Blvd.  
Key West, FL 33040

FOR CONTRACTOR  
All Power Generators, Corp.  
9840 N.W. 117 Way  
Medley, FL 33178

### **16. CANCELLATION**

- A) In the event that the contractor shall be found to be negligent in any aspect of operation maintenance, repair, or service, the County shall have the right to terminate this agreement after five days written notification to the Contractor.
- B) Either of the parties hereto may cancel this agreement without cause by giving the other party sixty (60) days written notice of its intention to do so.

### **17. GOVERNING LAWS**

Governing Law, Venue, Interpretation, Costs, and Fees: This Agreement shall be governed by and construed in accordance with the laws of the State of Florida applicable to contracts made and to be performed entirely in the State.

In the event that any cause of action or administrative proceeding is instituted for the enforcement or interpretation of the agreement, the County and contractor agree that venue will lie in the appropriate court or before the appropriate administrative body in Monroe County, Florida.

The County and Contractor agree that, in the event of conflicting interpretation of the terms or a term of this agreement by or between any of them the issue shall be submitted to mediation prior to the institution of any other administrative or legal proceeding.

## **18. RECORDKEEPING**

Contractor shall maintain all books, records, and documents directly pertinent to performance under this Agreement in accordance with generally accepted accounting principles consistently applied. Each party to this Agreement or their authorized representatives shall have reasonable and timely access to such records of each other party to this Agreement for public records purposes during the term of the Agreement and for four years following the termination of this Agreement. If an auditor employed by the County or Clerk determines that monies paid to Contractor pursuant to this Agreement were spent for purposes not authorized by this Agreement, the Contractor shall repay the monies together with interest calculated pursuant to Sec. 55.03, FS, running from the date the monies were paid to Contractor.

## **19. SEVERABILITY**

If any term, covenant, condition or provision of this Agreement (or the application thereof to any circumstance or person) shall be declared invalid or unenforceable to any extent by a court of competent jurisdiction, the remaining terms, covenants, conditions and provisions of this Agreement, shall not be affected thereby; and each remaining term, covenant, condition and provision of this Agreement shall be valid and shall be enforceable to the fullest extent permitted by law unless the enforcement of the remaining terms, covenants, conditions and provisions of this Agreement would prevent the accomplishment of the original intent of this Agreement. The County and Contractor agree to reform the Agreement to replace any stricken provision with a valid provision that comes as close as possible to the intent of the stricken provision.

## **20. ATTORNEY'S FEES AND COSTS**

The County and Contractor agree that in the event any cause of action or administrative proceeding is initiated or defended by any party relative to the enforcement or interpretation of this Agreement, the prevailing party shall be entitled to reasonable attorney's fees, court costs, investigative, and out-of-pocket expenses, as an award against the non-prevailing party, and shall include attorney's fees, court costs, investigative, and out-of-pocket expenses in appellate proceedings. Mediation proceedings initiated and conducted pursuant to this Agreement shall be in accordance with the Florida Rules of Civil Procedure and usual and customary procedures required by the circuit court of Monroe County.

## **21. BINDING EFFECT**

The terms, covenants, conditions, and provisions of this Agreement shall bind and inure to the benefit of the County and Contractor and their respective legal representatives, successors, and assigns.

## **22. AUTHORITY**

Each party represents and warrants to the other that the execution, delivery and performance of this Agreement have been duly authorized by all necessary County and corporate action, as required by law.

### **23. CLAIMS FOR FEDERAL OR STATE AID**

Contractor and County agree that each shall be, and is, empowered to apply for, seek, and obtain federal and state funds to further the purpose of this Agreement; provided that all applications, requests, grant proposals, and funding solicitations shall be approved by each party prior to submission.

### **24. ADJUDICATION OF DISPUTES OR DISAGREEMENTS**

County and Contractor agree that all disputes and disagreements shall be attempted to be resolved by meet and confer sessions between representatives of each of the parties. If no resolution can be agreed upon within 30 days after the first meet and confer session, the issue or issues shall be discussed at public meeting of the Board of County Commissioners. If the issue or issues are still not resolved to the satisfaction of the parties, then any party shall have the right to seek such relief or remedy as may be provided by this Agreement or by Florida law.

### **25. COOPERATION**

In the event any administrative or legal proceeding is instituted against either party relating to the formation, execution, performance, or breach of this Agreement, County and Contractor agree to participate, to the extent required by the other party, in all proceedings, hearings, processes, meetings, and other activities related to the substance of this Agreement or provision of the services under this Agreement. County and Contractor specifically agree that no party to this Agreement shall be required to enter into any arbitration proceedings related to this Agreement.

### **26. NONDISCRIMINATION**

County and Contractor agree that there will be no discrimination against any person, and it is expressly understood that upon a determination by a court of competent jurisdiction that discrimination has occurred, this Agreement automatically terminates without any further action on the part of any party, effective the date of the court order. County or Contractor agree to comply with all Federal and Florida statutes, and all local ordinances, as applicable, relating to nondiscrimination. These include but are not limited to: 1) Title VI of the Civil Rights Act of 1964 (PL 88-352) which prohibits discrimination on the basis of race, color or national origin; 2) Title IX of the Education Amendment of 1972, as amended (20 USC ss. 1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; 3) Section 504 of the Rehabilitation Act of 1973, as amended (20 USC s. 794), which prohibits discrimination on the basis of handicaps; 4) The Age Discrimination Act of 1975, as amended (42 USC ss. 6101-6107) which prohibits discrimination on the basis of age; 5) The Drug Abuse Office and Treatment Act of 1972 (PL 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; 6) The Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (PL 91-616) as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism;; 7) The Public Health Service Act of 1912, ss. 523 and 527 (42 USC ss. 690dd-3 and 290ee-3), as amended, relating to confidentiality of alcohol and drug abuse patent records; 8) Title VIII of the Civil Rights Act of 1968 (42 USC s. et seq.) as amended, relating to nondiscrimination in the sale, rental or financing of housing; 9) The Americans with Disabilities Act of 1990 (42 USC s. 1201 Note0, as maybe amended from time to time, relating to nondiscrimination on the basis of disability; 10) Any other nondiscrimination provisions in any federal or state statutes which may apply to the parties to, or the subject matter of, this Agreement. Monroe County Code Ch. 13, Art. VI, prohibiting discrimination on

the basis of race, color, sex, religion, disability, national origin, ancestry, sexual orientation, gender identity or expression, familial status or age. 11) Any other nondiscrimination provisions in any Federal or state statutes which may apply to the parties to, or the subject matter of , this Agreement.

## **27. COVENANT OF NO INTEREST**

County and Contractor covenant that neither presently has any interest, and shall not acquire any interest, which would conflict in any manner or degree with its performance under this Agreement, and that only interest of each is to perform and receive benefits as recited in this Agreement.

## **28. CODE OF ETHICS**

County agrees that officers and employees of the County recognize and will be required to comply with the standards of conduct for public officers and employees as delineated in Section 112.313, Florida Statutes, regarding, but not limited to, solicitation or acceptance of gifts; doing business with one's agency; unauthorized compensation; misuse of public position, conflicting employment or contractual relationship; and disclosure or use of certain information.

## **29. NO SOLICITATION/PAYMENT**

The County and Contractor warrant that, in respect to itself, it has neither employed nor retained any company or person, other than a bona fide employee working solely for it, to solicit or secure this Agreement and that it has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee working solely for it, any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Agreement. For the breach or violation of the provision, the Contractor agrees that the County shall have the right to terminate this Agreement without liability and, at its discretion, to offset from monies owed, or otherwise recover, the full amount of such fee, commission, percentage, gift, or consideration.

## **30. PUBLIC ACCESS**

The County and Contractor shall allow and permit reasonable access to, and inspection of, all documents, papers, letters or other materials in its possession or under its control subject to the provisions of Chapter 119, Florida Statutes, and made or received by the County and Contractor in conjunction with this Agreement; and the County shall have the right to unilaterally cancel this Agreement upon violation of this provision by Contractor.

## **31. NON-WAIVER OF IMMUNITY**

Notwithstanding the provisions of Sec. 286.28, Florida Statutes, the participation of the County and the Contractor in this Agreement and the acquisition of any commercial liability insurance coverage, self-insurance coverage, or local government liability insurance pool coverage shall not be deemed a waiver of immunity to the extent of liability coverage, nor shall any contract entered into by the County be required to contain any provision for waiver.

## **32. PRIVILEGES AND IMMUNITIES**

All of the privileges and immunities from liability, exemptions from laws, ordinances, and rules and pensions and relief, disability, workers' compensation, and other benefits which apply to the activity of officers agents or employees of any of any public agents or employees of the County, when performing



their respective functions under this Agreement within the territorial limits of the County shall apply to the same degree and extent to the performance of such functions and duties of such officers agents, volunteers, or employees outside the territorial limits of the County.

### **33. LEGAL OBLIGATIONS AND RESPONSIBILITIES**

Non-Delegation of Constitutional or Statutory Duties. This Agreement is not intended to, nor shall it be construed as, relieving any participating entity from any obligation or responsibility imposed upon the entity by law except to the extent of actual and timely performance thereof by and participating entity, in which case the performance may be offered in satisfaction of the obligation or responsibility. Further, this Agreement is not intended to, nor shall it be construed as, authorizing the delegation of the constitutional or statutory duties of the County, except to the extent permitted by the Florida constitution, state statute, and case law.

### **34. NON-RELIANCE BY NON-PARTIES**

No person or entity shall be entitled to rely upon the terms, or any of them, of the Agreement to enforce or attempt to enforce any third-party claim or entitlement to or benefit of any service or program contemplated hereunder, and the County and the Contractor agree that neither the County nor the Contractor or any agent, officer, or employee of either shall have the authority to inform, counsel, or otherwise indicate that any particular individual or group of individuals, entity or entities, have entitlements or benefits under this Agreement separate and apart, inferior to, or superior to the community in general or for the purposes contemplated in this Agreement.

### **35. ATTESTATIONS**

Contractor agrees to execute such documents as the County may reasonably require, to include a Public Entity Crime Statement, An Ethics Statement, and a Drug-Free Workplace Statement.

### **36. NO PERSONAL LIABILITY**

No covenant or agreement contained herein shall be deemed to be a covenant or agreement of any member, officer, agent or employee of Monroe County in his or her individual capacity, and no member, officer, agent or employee of Monroe County shall be liable personally on this Agreement or be subject to any personal liability or accountability by reason of the execution of this Agreement.

### **37. EXECUTION ON COUNTERPARTS**

This Agreement may be executed in any number of counterparts, each of which shall be regarded as an original, all of which taken together shall constitute one and the same instrument any of the parties hereto may execute this Agreement by signing any such counterpart.

### **38. SECTION HEADINGS**

Section headings have been inserted in this Agreement as a matter of convenience of reference only, and it is agreed that such section headings are not a part of this Agreement and will not be used in the interpretation of any provision of this Agreement.

### **39. CONTINGENCY STATEMENT**



Monroe County's performance and obligation to pay under this contract is contingent upon an annual appropriation by the Monroe county Board of County Commissioners.

#### **40. SPECIFICATIONS**

This project requires the furnishing of all labor, materials, equipment, tools, transportation, services, and incidentals, and the performing of all work necessary in accordance with the specifications entitled:

**EMERGENCY GENERATOR INSPECTIONS  
AND ELECTRICAL REPAIRS  
UPPER, MIDDLE, AND LOWER KEYS FACILITIES  
FROM KEY WEST TO CARD SOUND  
MONROE COUNTY, FLORIDA**

- A. The Contractor/Technicians shall perform one inspection of the approximately fifty-seven (57) emergency generators, listed on the Generator List, using the approved inspection checklist. The annual major inspection is required during the month of March in preparation for hurricane season. The annual major inspection will include electrical load tests, and laboratory testing of oil samples. Load tests may have to be accomplished after normal working hours. The Owner will provide the electrical load for the portable generators. The Owner may provide or perform the annual oil changes and other routine engine maintenance. Immediately following inspections, the Contractor shall submit inspection reports identifying needed maintenance, electrical, and/or engine repairs.
- B. The CONTRACTOR/TECHNICIANS shall perform maintenance, electrical, and/or engine repairs upon the request of the Owner. The OWNER reserves the right to seek assistance from third party contractors, (on a case-by-case basis), if determined in the best interest of the OWNER.
- C. The Owner is responsible for routine engine repairs and maintenance (such as, replacement of defective water hoses, drive belts, batteries, filters, lubricants, etc.), but may approve the Contractor/Technicians or others to perform these repairs on a case-by-case basis. The Owner may perform or assist with all routine and emergency repairs.
- D. The Contractor/Technicians shall be available 24 hours per day, 365 days per year. The Contractor shall report to the owner's Emergency Operations Center (EOC) within four (4) hours of verbal notification and remain on site available to the owner immediately following an emergency, declared by the owner. The Contractor/Technicians shall be at the site of an Emergency Generator requiring emergency repairs within four (4) hours of verbal notification by the Owner. Monroe County shall be given priority at all times for generators requiring emergency repairs. The Owner and the Contractor recognize that time is of the essence in this Contract. They also recognize the delays, expenses, and difficulties involved in proving, in a legal proceeding, the actual Loss suffered by Owner if the work is not completed on time. Accordingly, instead of requiring such proof, Owner and Contractor agree that as liquidated damages for delay (but not as a penalty) Contractor shall pay Owner \$80.00 for each hour over four (4) hours that expires after notification to respond and the Contractor is not on site, barring travel conditions beyond Contractors control.
- E. The Contractor shall have access to a supply of all parts and controls normally necessary for the emergency repairs of all county maintained Emergency Generators so that such emergency repairs can be completed as soon as possible. If the Contractor feels that a unit is not economically repairable, the Contractor will submit an estimate for replacement and/or repair to the Owner. The Owner may, at his discretion, have the Contractor repair the unit in keeping with the repair estimate or seek other outside proposals for replacement.
- F. The Contractor may be required to assist in the development of specifications for new or replacement generators and associated equipment.

IN WITNESS WHEREOF the parties hereto have executed this Agreement on the day and date first written above in four (4) counterparts, each of which shall, without proof or accounting for the other counterparts, be deemed an original contract.

(SEAL)

Attest: DANNY L. KOLHAGE, CLERK

BOARD OF COUNTY COMMISSIONERS  
OF MONROE COUNTY, FLORIDA

By: \_\_\_\_\_  
Deputy Clerk

By: \_\_\_\_\_  
Mayor/Chairman

Date: \_\_\_\_\_

(SEAL)

Attest:

CONTRACTOR

By: \_\_\_\_\_  
WITNESS

By: Tom R. Fancia

Title: \_\_\_\_\_

Title: President

By: \_\_\_\_\_  
WITNESS

Title: \_\_\_\_\_

MONROE COUNTY ATTORNEY  
APPROVED AS TO FORM:  
Suzanne A. Hutton  
SUZANNE A. HUTTON  
ASSISTANT COUNTY ATTORNEY  
Date 5/16/05

## BID FORM

**BID TO: MONROE COUNTY BOARD OF COUNTY COMMISSIONERS**  
**C/O PURCHASING DEPARTMENT**  
**GATO BUILDING ROOM 2-213**  
**1100 SIMONTON STREET**  
**KEY WEST, FLORIDA 33040**

**BID FROM:**

All Power Generators Corp  
9840 New Highway  
Medley, FL 33178

The undersigned, having carefully examined the work, specifications, proposal, and addenda thereto and other Contract Documents for the services of:

### EMERGENCY GENERATOR INSPECTIONS AND ELECTRICAL REPAIRS

And having become familiar with all local conditions including labor affecting the cost thereof, and having familiarized himself with material availability, Federal, State, and Local laws, ordinances, rules and regulations affecting performance of the work, does hereby propose to furnish labor, mechanics, tools, material, equipment, transportation services, and all incidentals necessary to perform and complete said work in a workman-like manner, in conformance with said specifications, and other contract documents including addenda issued thereto.

1. Labor for repairs – normal working hours of 8:00 a.m. to 5:00 p.m., Monday through Friday, excluding holidays: \$ 40.00 per hour, mechanic  
20.00 per hour, helper  
60.00 per hour, mechanic plus helper
2. Labor for repairs – overtime rate for hours other than the normal working hours as stated in item 1 above, including holidays:  
\$ 50.00 per hour, mechanic  
25.00 per hour, helper  
75.00 per hour, mechanic plus helper
3. Materials, supplies and replacement parts:  
Cost plus 20 %
4. Rate for specification development/other professional services, excluding Electrical/Generator maintenance and repairs:  
\$ 50.00 per hour

5. Rate for hours of 8:00 a.m. to 5:00 p.m. during assignment to the owners Emergency Operations Center (EOC) excluding actual Electrical/Generator maintenance and repairs:  
\$50.00 per hour
6. Rate for hours other than the hours stated in item 5 above, during assignment to the owners Emergency Operations Center (EOC), excluding actual Electrical/Generator maintenance and repairs:  
\$50.00 per hour

**Note: There are no additional costs for travel, mileage, meals, or lodging.**

The Contractor's request for payment must itemize each of the costs stated above.

I acknowledge receipt of Addenda No. (s) \_\_\_\_\_

I have included proposed periodic inspection checklists and inspection schedules \_\_\_\_\_

I have included pages 19 through 25 of the Bid Proposal which entails the Proposal Form ✓, the Non-Collusion Affidavit ✓, the Lobbying and Conflict of Interest Clause ✓, the Drug Free Workplace Form ✓, the Insurance Agents Statement, and the Credential List ✓. In addition, I have included copy of Contractor's License ✓, Monroe County occupation License ✓, and all requirements as stated in the Instructions to Bidders, Article 3, Paragraphs A through F.

**(Check mark items above, as a reminder that they are included.)**

Mailing Address: All Power Generators, Corp Telephone: 305-888-0059  
9840 NW 117 way Fax: 305-888-2090  
Nedley, FL 33178 Date: 3/21/05

Signed:

Juan R. Garcia  
Juan R. Garcia

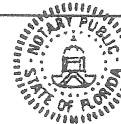
Witness:

(Seal)

(Name)

PRESIDENT

(Title)



**Ana Mejia**  
Commission # DD283684  
Expires: Jan, 21, 2008  
Aaron Notary 1-800-350-5161